



TAXES IN ITALY – 2015/2016

INTRODUCTION:

In Italy there are different kind of taxes that hit on different taxable bases.

The main taxes can be qualified under three main categories:

- INCOME TAXES:

- IRES (Imposta sul Reddito delle Persone Giuridiche): Corporation tax on the net income of companies with Limited Liability (The main used are: S.R.L. and S.P.A.);
- IRPEF (Imposta sul Reddito delle Persone Fisiche): Individual Tax on the net income of individuals and quota holders of companies without Limited Liability (S.n.c., S.a.s)
- IRAP (Imposta Regionale sulle Attività Produttive): Regional Tax on the net profit of Companies both with and without Limited Liability Responsibility and individuals as well if running business activities;
- SUBSTITUTIVE TAX of IRPEF: for special business activities
- CAPITAL GAIN TAX on financial revenues.

- INDIRECT TAXES:

- Value Added Tax
- Stamp Tax
- Register Tax
- Registration\CCIAA Tax for companies and individuals listed to the Italian chamber of Commerce
- Stamp Books Tax
- IMU\TASI (Real Estate taxes)
- Motor vehicles taxes
- Custom Duties



- **SOCIAL CONTRIBUTIONS:**

- o Social Security Contribution (Inail)
- o Contribution to National Social Security Fund (INPS)

SETTING UP A BUSINESS:

Various options are available to set up a business in Italy.

SPA: Società Per Azioni (Join Stock Company)

SPA are usually chosen by medium size and large companies.

The minimum requested share capital is 50.000 € and it is divided into shares. This corporation must be set up in front of a Public Notary and specific requirements must be respected.

The company has legal personality and Limited Liability Responsibility so the shareholders are not reliable for liabilities of the company if not in the limit of the share capital subscribed.

SPA have to appoint a Director or a Board of Directors, as well as a Council of Auditors.

Spa has to register to the Italian Chamber of Commerce and obtain a VAT Number from the Italian Fiscal Authorities.

If capital losses reduce the shares capital under the minimum level (50.000 €), then the share capital must be restored or the company must be transformed in an Srl, in a Non Limited Liability Company or liquidated.

Spa has to keep books on the bases of the Italian Accounting Principles stated by the Ordine Dottori Commercialisti e Ragionieri; they have to fill a yearly Financial Statement to the Italian Chamber of Commerce, Financial Statement that need to be approved by the company shareholders' meeting.

SPA is subject to IRES and IRAP.

SRL: Società a Responsabilità Limitata (Limited Liability Company)

SRL are chosen by small entities or new businesses.

The ordinary Srl require a minimum share capital of 10.000 €. In the last years also simplified formulas of SRL can be chosen, with a share capital of less then 10.000 € and



also, for very specific cases, also of 1 € but in this case the Article of Association is fixed by law.

The rules are in general the same of the SPA; the Council of Auditors become compulsory if the share capital is over 50.000 € but if it is under that limit then is in general not requested. Spa has to register to the Italian Chamber of Commerce and obtain a VAT Number from the Italian Fiscal Authorities.

If capital losses reduce the shares capital under the minimum level (10.000 €), then the share capital must be restored or the company must be transformed in a Non Limited Liability Company or liquidated.

Srl has to keep books on the bases of the Italian Accounting Principles stated by the Ordine Dottori Commercialisti e Ragionieri; they have to fill a yearly Financial Statement to the Italian Chamber of Commerce, Financial Statement that need to be approved by the company shareholders' meeting.

SRL is subject to IRES and IRAP.

Individuals and Non Limited Liability Companies:

Individuals can start a business by registering at the Italian Chamber of Commerce Register and obtaining a VAT Number from the Italian Fiscal Authorities.

In certain cases the registration to the Italian Chamber of Commerce is not requested (for example Auditors, Psychologists, other professionals).

Non Limited Liability companies must be set up in front of a Notary; they need to be registered at the Italian Chamber of Commerce and need to get a VAT number from the Italian Fiscal Authorities.

The accounting system for individuals and Non Limited Liability companies is, by default, simplified respect of the one applied for Limited Liability's, but over certain limit the ordinary accounting system is applied. The ordinary one can also be chosen as alternative to the simplified one.

Individuals are subject to IRPEF and, in certain cases, to IRAP.

Non Limited Liability Companies are subject to IRAP; the net income of the company is taxed directly by the quota holders in their own fiscal return on the base of the % of their participation.



Branch of a foreign corporation:

A foreign company may set up a branch in Italy. A branch is not considered as an entity and the head office is responsible for the obligations of the branch.

A branch must be registered in Italy, must get a VAT Number and must follow Italian bookkeeping rules as Limited Liability Companies.

Taxation of a branch is the same of Limited Liabilities Company; this is why very often foreign companies prefer to set up a subsidiary instead of a branch.

Representative Office:

To set up a representative office a request to the local Chamber of Commerce must be submitted. The representative office can just provide preparatory or auxiliary activities (promotion, public relations, etc.) and is not considered a permanent establishment for direct tax purposes.

INCOME TAXES:

IRES: Imposta Sul Reddito delle Persone Giuridiche (Income Tax on Limited Liabilities Companies).

Corporate Income Tax Rate:	27,5%
Taxable Base:	Net Income from Financial Statement + Non deductible Costs

The Italian Fiscal Law provides for a number of costs that cannot be deducted from the revenues from a fiscal perspective.

The method, transposed into the yearly fiscal return, is to identify the fiscal tax base adding these non deductible costs “on top” of the Net Profit\Loss indicated in the financial statement that results from the bookkeeping.

Example of **non deductible** costs:

- IRES\IRAP (Profit is shown in the FS net of taxes; they are non deductible);
- 20% of telephone costs (fixed and\or mobile, in this case included depreciation);
- 80% of car costs (with certain specific rules for depreciation, rental costs, fuel);
- Negative Interests are deductible in the limit of the Active Interests and of 30% of the EBITDA;



- IMU\TASI are non deductible (IMU) or partially deductible (10% Tasi);
- Representative Costs – deductible under specific rules;
- Accommodation, Restaurant and transfer costs;
- Costs not relating to the business;
- Costs deducted in fiscal years they don't refer to (for example invoices related to services not accrued in the previous fiscal years and booked in the year the fiscal return refers to);
- Bad debt provision exceeding 5% of the gross Account Receivables...

Some costs can be deducted in following fiscal years like for example maintenance costs exceeding 5% of the gross amount of the Fixed Assets existing in the Financial Statement.

In the case of increase of the NET EQUITY, a 4,5% deduction (quantified on the amount of the increase: Increase*4,5%) is allowed from the taxable base (4,75% for 2016). This mechanism is called ACE.

Under certain conditions a particular rule, known as “Non Operating Companies” is applied which implicates that if the rule operates (revenues under certain limits and/or fiscal losses for more than 5 fiscal years) a minimum profit is taxed at a rate of 38%.

Fiscal Losses can be carried forward indefinitely; they cannot be carried back.

For worldwide companies some general principles are applied (participation exemptions, double taxation reliefs, transfer price rules, controlled foreign company rules).

The Fiscal Return is due by the 9th month after the closing of the fiscal year, that can also be different from the calendar year for SPA and SRL.

Law provides for an advanced payment of IRES (equal to 100% for 2015) of the previous year's tax amount due (40% due together with the balance of the previous year, 60% 5 months later).



Payments can also be divided into instalments.

Payments are provided through a specific payment model: F24.

IRPEF: Imposta Sul Reddito delle Persone Fisiche (Income Tax on Individuals and Non Limited Liabilities Companies profits).

Individuals are subject to personal Income Tax. If an individual is an employee or a professional, his wage\salary or fee is subject to withholding tax, which is paid by the employer\customer to the fiscal authorities on his behalf.

Irpef is quantified at the end of each fiscal year, equivalent to the calendar year, on the base of specific fiscal returns (model 730 for employed persons, model UNICO for professionals and\or non employed persons). The amounts withheld during the year reduce the amount of the balance due being considered as “advanced payment”.

Individual Income Tax Rate:	Progressive up to 43% (by block of incomes);
Dividends from qualified participations:	Taxed as normal income but for the 49,72% of the dividends received;
Capital gains from qualified participations:	Taxed as normal income but for the 49,72% of the capital gain realized;
Capital gain from non qualified participations:	26% flat tax;
General Principle:	Worldwide Taxation.

Individual Taxations:

Taxable Incomes for individuals is the sum of the following incomes:

- Salaries\Wages;
- Real Estate figurative Income (or amount of the yearly rent if buildings are rented);
- Dividends\Capital Gains from Qualified Participations;
- Other income (Royalties, Interests)
- Profit from business Activities;
- Pro-quota Profits from participation in Non Limited Liabilities Companies;
- Pro-quota Losses – deduction of - from participation in Non Limited Liabilities Companies (in certain cases);
- Profit from Occasional Business Activities.



From the sum of the incomes as specified above some deductions are allowed and specifically stated by the law:

- Deductions for Employees or for business activity;
- Deductions for dependent family members (son, daughter, spouse);
- Deductions for specific costs sustained (ex: Social Security contributions, medical expenses, interests for the purchase of the main house, % of the costs for the restructuring of a building);
- Deductions for life insurance.

From the total amount calculated, the amounts withheld by the Employer\customer, as well as advance payments provided directly by the individual, reduce the amount due.

Law provides for an advanced payment of IRES (equal to 100% for 2015) of the previous year's tax amount due (40% due together with the balance of the previous year, 60% 5 months later).

Payments can also be divided into instalments.

Payments are provided through a specific payment model: F24.

Substitutes rates are applied in some cases on profits from business activities; these particular rules were studied to promote new activities for young people and to sustain new business ideas. In these cases the incomes from these activities are not added to the other incomes but are taxed separately.

Profit from business Activity: taxable base

Profits from Business Activities are included in the taxable base of the Individuals.

The taxable income from business activity is quantified by adding to the net profit all the non deductible costs as identified above with respect to IRES.

The same rules are applied to the taxable base of the Non Limited Liabilities Companies. In this case the taxable base is shared among the quota holders (the company is "transparent"), so if a quota holder owns the 50% of the Non Limited Liabilities Company,



then he will tax 50% of the profit generated by the company.

Social Security Contributions on Business Activity is around 28% (depending on the activity) paid on a minimum of around 15.000 € income (regardless if it is produced or not) and a maximum of 92.000 € income (if income is more than 92.000 € no further contributions are due). Social Security Contributions are fully deductible from the taxable base the year they are paid (cash principle).

Employee Taxation:

Employee's wages\salaries are subject to withholding tax. Also Social Security Contributions are partially withheld (average Social Security Contribution is around 38%, 9% withheld from the employee, the difference paid by the Employer).

IRAP: Imposta Regionale Attività Produttive (Regional Tax on Product Activities).

Irap is a Regional Tax and is paid with the same due dates of the Income Taxes mentioned above and with the same method (F24).

The IRAP taxable income of companies is based on the statutory accounts results and the law indicates the items included in the base.

The base is determined differently for commercial\productive companies and insurance\bank\financial institutions.

Some costs are not deductible; in particular:

- Payroll costs (including contributions for Social Security);
- Account Receivable Losses;
- Interest Expenses and other financial costs;
- Extraordinary Costs;
- Taxes.

At the same time some revenues are not taxable:

- Extraordinary Revenues;
- Positive Interests and other financial revenues.

In manufacturing\commercial companies the taxable base is composed of the revenues from sales\services, net of production costs (excluded the costs\revenues indicated above).



For banks, insurance companies and other financial institutions specific rules are applied.

Part of the IRAP paid during the fiscal year is deductible if the company has payroll costs and/or interest expenses.

The ordinary tax rate is 3,9%; every region can increase or decrease the rate by 0,92%.

Irap is applied on Limited Liabilities Companies, Non Limited Liabilities Companies and Individuals running business activities (limited to the income provided by this specific activity) as well.

WITHHOLDING TAXES:

Dividends

Dividends paid to non resident corporations are subject to 26% withholding tax, with the possibility to ask for a partial refund; double taxation treaties may reduce this w/t rate if in place.

Interests

Interests paid to non resident corporations are subject to 26% withholding tax, with the possibility to ask for a partial refund; double taxation treaties may reduce this w/t rate if in place.

Interests from direct\indirect investments in government bonds or similar are subject to 12,5% substitute tax.

Royalties

Royalties paid to non resident companies are subject to 30% w/t on the 75% of the total amount paid. If a double taxation treaty is in place the % is usually reduced.

Wage Tax\Social Security Contribution

Unless an existing Double Taxation Treaty provides differently, incomes from employment agreements paid by an Italian company are subject to w/t on the base of the



IRPEF rates.

Contributions for social security, unless different disposals by Double Social Security Treaty, must be paid both by the Employer and the Employee (same %s indicated above).

INDIRECT TAXES:

VAT: Value Added Tax

Standard VAT rate is 22%. Reduced rates of 4% and 10% are provided for special goods and services.

EEC rules and International Service Rules are applied with reference to the reverse charge procedure. Reverse charge is also applied for specific business like real estate, technical equipments, etc.

0 rate is applied on specific transactions (export, Intra EEC deals, International Services, health care, etc.).

A yearly VAT return is to be filled.

Particular rules are provided for the recovering of the VAT Credits.

REAL ESTATE Tax

Two different kind of taxes exists on real estate and municipalities have the right to choose their rate: IMU (base is 0,76% on the taxable amount, whose base is a revaluation of the figurative income related) and TASI (base is 0,1% and the base is the same as the IMU).

Register Tax

Certain transactions are subject to registration to the Public Register. This is the case of real estate and business concern transfers.

Rates can be different depending on what is the object of the transaction and what is the status of the subjects involved as well.

Stamp Duty

These are imposed on specific acts listed in the legislation. Examples are the invoices with zero rate VAT applied.

A specific list of acts requesting stamp duty is provided by the law.



A yearly stamp duty for company's books is due every year for the amount of 309,87 if equity is less than 516K € or 517 € if over that limit.

Registration\CCIAA Tax

Changes to company statutes require registration and the related tax is different depending on the kind of act filed; the registration of the yearly financial statement due for limited liabilities companies costs 127 €. Every year an annual fee based on the turnover of the companies is due for limited and unlimited liabilities responsibility companies, with a minimum of 200 €; for individuals this annual fee is fixed and is 53 €.

Other taxes

A number of further taxes exists in the Italian Legislation and depends on the kind of activity carried by the company\individual (i.e.: Tobin Tax, Environmental tax, ...) but it is not relevant to go through them.